

HB 2126-S.E - DIGEST

(AS OF HOUSE 2ND READING 3/11/05)

Recognizes that it is important that dependent persons who are witnesses and victims of crime cooperate with law enforcement and prosecutorial agencies and that their assistance contributes to state and local enforcement efforts and the general effectiveness of the criminal justice system.

Finds that the state has an interest in making it possible for courts to adequately and fairly conduct cases involving dependent persons who are victims of crimes.

Declares an intent, by means of this act, to insure that all dependent persons who are victims and witnesses of crime are treated with sensitivity, courtesy, and special care and that their rights be protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded to other victims, witnesses, and criminal defendants.

Provides that, in addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement agencies, prosecutors, and judges to assure that dependent persons who are victims or witnesses are afforded the rights enumerated in this act.

Allows the prosecutor to file a motion with the court at any time prior to commencement of the trial for an order authorizing the taking of a video tape deposition of the dependent person's testimony.

Provides that, on motion of the prosecuting attorney in a criminal proceeding, the court may order that a dependent person may testify in a room outside the presence of the defendant or the jury, or both, while one-way closed circuit television equipment simultaneously projects the dependent person's testimony into another room so the defendant or the jury, or both, can watch and hear the dependent person testify if: (1) The testimony is taken during the court proceeding;

(2) The court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that requiring the dependent person to testify in the presence of the defendant or the jury, or both, will cause the dependent person to suffer serious emotional or mental distress that will prevent the dependent person from reasonably communicating at the trial or that the dependent person will suffer emotional or mental distress from testifying in the presence of the defendant or the jury, or both.

Provides that the failure to provide notice to a dependent person of the rights enumerated in this act or the failure to provide the rights enumerated shall not result in civil liability so long as the failure was in good faith.